

Remarks

Reconsideration of this patent application is respectfully requested, particularly as herein amended.

The Office Action of December 23, 2005, first objects to claims 6 to 17 under 37 C.F.R. §1.75(c) as being in improper multiple dependent form. In reply, the dependency of claim 4 has been amended so that claim 4 is no longer in multiple dependent form. As a result, claims 6 to 17, which remain in multiple dependent form, no longer depend from another multiple dependent claim, overcoming the objection to claims 6 to 17 under 37 C.F.R. §1.75(c).

Claims 1 to 17 are rejected under 35 U.S.C. §101 for reciting a process that is not considered to be directed to the technological arts. It is noted, however, that claims which recite a "computer-implemented method" would be considered as being directed to the technological arts.

This matter was briefly discussed with the Examiner by telephone on December 13, 2005. During this telephone conference the Examiner indicated that the rejection of claims 1 to 17 under 35 U.S.C. §101 for reciting a process that is not considered to be directed to the technological arts could be overcome by the recitation of a "machine-implemented method". The undersigned would like to thank the Examiner for his consideration of this issue.

Claim 1 has been amended to presently recite "A machine-implemented method", overcoming the rejection of claims 1 to 17 under 35 U.S.C. §101 for reciting a process that is not considered to be directed to the technological arts.

Claims 1 to 17 are further rejected under 35 U.S.C. §101 because the claimed invention is considered to be directed to non-statutory subject matter. This matter was also briefly discussed with the Examiner by telephone on December 13, 2005. During this telephone conference the Examiner indicated that the rejection of claims 1 to 17 under 35 U.S.C. §101 because the claimed invention is considered to be directed to non-statutory subject matter could be overcome by the recitation of a fixed result for the claimed method. The undersigned again thanks the Examiner for his consideration of this issue.

Claim 1 has been amended to presently recite a defined "roll function for shaping and superelevating said railroad tracks and other vehicle guideways", reciting a fixed result for the claimed method. It is submitted that by reciting a fixed result, the claimed method presently requires "physical acts to be performed outside the computer, those acts being independent of and following the steps to be performed by the computer, those acts further involving the manipulation of tangible physical objects which result in the object having a different physical attribute or structure", meeting the noted "Independent Physical Acts (Post-Computer Process Activity)"

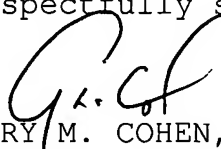
requirement. It is further submitted that by reciting a fixed result, the claimed method presently requires "measurements of physical objects to be transformed outside of the computer into computer data", meeting the noted "Manipulation of Data Representing Physical Objects or Activities (Pre-Computer Process Activity)" requirement. Accordingly, it is submitted that the recitation of a fixed result for the claimed method overcomes the rejection of claims 1 to 17 under 35 U.S.C. §101 because the claimed invention is considered to be directed to non-statutory subject matter.

It is noted that the Office Action of December 23, 2005, indicates that claims 1 to 17 are deemed to be allowable over the prior art of record pending resolution of the rejections formulated under 35 U.S.C. §101. In view of the foregoing, it is submitted that the rejections formulated under 35 U.S.C. §101 have been overcome, placing applicant's claims in condition for allowance. Claim 2 has further been amended to recite identified approximations, as disclosed in the specification at lines 19 to 30 of page 2, and at lines 27 to 29 of page 5 and at lines 8 to 10 of page 6, and claim 5 has been amended to include a value for m of 1.0, as disclosed in the specification at line 4 of page 5, and at lines 9 and 18 of page 8, and to conform the format of other specified values. In view of the foregoing, it is submitted that this patent application has been placed in condition for allowance and corresponding action

is earnestly solicited.

As a final matter, a further Information Disclosure Statement for this patent application has been submitted with this Reply. Due consideration of the enclosed Information Disclosure Statement is respectfully requested.

Respectfully submitted,



GARY M. COHEN, ESQ.
Reg. No. 28,834
Attorney for Applicant
Tel.: (610) 975-4430